

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

RODNEY D. PIERCE and
MOSES MATTHEWS,

Plaintiffs,

v.

THE NORTH CAROLINA STATE BOARD
OF ELECTIONS, *et al.*,

Defendants.

Case No. 4:23-cv-193-D

JOINT MOTION FOR MODIFICATION OF SCHEDULING ORDER

Plaintiffs Rodney D. Pierce and Moses Matthews, together with Defendants the North Carolina State Board of Elections, Alan Hirsch, Jeff Carmon III, Stacy Eggers IV, Kevin N. Lewis, Siobhan O’Duffy Millen, each in their official capacities (the “State Board Defendants”), and Philip E. Berger and Timothy K. Moore¹, both in their official capacities (the “Legislative Defendants”), jointly move the Court for an order modifying the Court’s Scheduling Order, D.E. 81, to allow the parties additional time to exchange supplemental reports from their respective Racially Polarized Voting (“RPV”) experts utilizing data from the November 2024 general election, and to conduct depositions of the competing RPV experts based upon the same. In support, the parties show the following:

¹ Speaker Moore will not return to the General Assembly for the 2025-2026 legislative session, as he was recently elected to Congress. Legislative Defendants will notify the Court and all parties of the new Speaker upon his or her election.

1. Per the Court's July 2, 2024 Scheduling Order, the current deadline for the parties to exchange their RPV experts' supplemental reports with data from the November 2024 election is January 9, 2025, which has not yet expired. [D.E. 81].

2. Similarly, the Scheduling Order requires the parties to complete any supplemental depositions of the RPV experts regarding their supplemental reports by no later than January 24, 2025. [*Id.*].

3. On December 18, 2024, counsel for the State Board Defendants notified the parties that the county precinct-level data needed to complete supplemental RPV reports from the November 2024 election would likely not be available until early January. On December 23, 2024, counsel for Legislative Defendants sent a proposal for modifying this Court's Scheduling Order to account for the delayed arrival of county precinct-level data. On January 6, 2024, counsel for the State Board Defendants represented that the State Board expected to have the county precinct-level data available on January 10, or January 11, 2025.

4. Considering the Scheduling Order's impending deadlines and the truncated amount of time remaining before trial in this matter is set to begin, the parties agree that a short extension of time is necessary such that their respective RPV experts have sufficient time to review the relevant data, issue supplemental reports, and prepare and sit for depositions regarding the same.

5. Accordingly, the parties respectfully request that the Court modify the Scheduling Order and extend the deadline for the exchange of their respective RPV experts' supplemental reports to January 24, 2025. The parties further request that the deadline for supplemental depositions of the RPV experts' supplemental reports be extended to January 31, 2025.

6. All parties consent to this motion.

7. This is the parties' first request for an extension of time of this nature.

8. This motion is made within the current deadline and is not made for any improper purpose.

WHEREFORE, the parties respectfully request that the Court enter an Order modifying the Scheduling Order to allow for the exchange of RPV experts' supplemental reports by January 24, 2025, and to allow for supplemental depositions of the RPV experts' supplemental reports by January 31, 2025.

Respectfully submitted this, the 8th day of January, 2025.

POYNER SPRUILL LLP

By: /s/ Edwin M. Speas, Jr.

Edwin M. Speas, Jr.
North Carolina State Bar no. 4112
Caroline P. Mackie
North Carolina State Bar no. 41512
Post Office Box 1801
Raleigh, NC 27602
Telephone: (919) 783-1108
cmackie@poynerspruill.com
espeas@poynerspruill.com

**ARNOLD & PORTER
KAYE SCHOLER LLP**

Robert Stanton Jones*
Elisabeth S. Theodore*
Samuel I. Ferenc*
Orion de Nevers*
601 Massachusetts Ave., NW
Washington, D.C. 20001
Telephone: (202) 942-5000
stanton.jones@arnoldporter.com
elisabeth.theodore@arnoldporter.com
sam.ferenc@arnoldporter.com
orion.denevers@arnoldporter.com

**Appeared via Special Notice
Attorneys for Plaintiffs*

N.C. DEPARTMENT OF JUSTICE

By: /s/ Terence Steed
Terence Steed

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

By: /s/ Phillip J. Strach
Phillip J. Strach
North Carolina State Bar no. 29456
Alyssa M. Riggins
North Carolina State Bar no. 52366
Cassie A. Holt
North Carolina State Bar no. 56505
Jordan A. Koonts
North Carolina State Bar no. 59363
301 Hillsborough Street, Suite 1400
Raleigh, North Carolina 27603
Ph: (919) 329-3800
phil.strach@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
cassie.holt@nelsonmullins.com
jordan.koonts@nelsonmullins.com

BAKER & HOSTETLER LLP

Katherine L. McKnight*
D.C. Bar No 994456
1050 Connecticut Ave. NW, Suite 1100
Washington DC 20036
Ph: (202) 861-1500
kmcknight@bakerlaw.com

Patrick T. Lewis*
Ohio State Bar no. 0078314
127 Public Square, Suite 2000
Cleveland, Ohio 44114

Special Deputy Attorney General
N.C. State Bar No. 52809
E-mail: tsteed@ncdoj.gov

Mary Carla Babb
Special Deputy Attorney General
N.C. State Bar No. 25731
E-mail: mcbabb@ncdoj.gov

N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629
Telephone: (919) 716-6567
Facsimile: (919) 716-6761

*Attorneys for Defendants NCSBE,
Hirsch, Carmon III, Eggers IV,
Lewis, and Millen*

Ph: (216) 621-0200
plewis@bakerlaw.com

Erika Dackin Prouty*
Ohio State Bar No. 0095821
200 Civic Center Drive, Suite 1200
Columbus, OH 43215
(614) 462-4710
eprouty@bakerlaw.com

** Appeared via Special Notice
Attorneys for Legislative Defendants*